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10690 U.S. PTO

PATENT  
120301-2382A

10690 U.S. PTO  
09/751512  
12/29/00

Patent Application Transmittal

(only for new nonprovisional applications under 37 C.F.R. 1.53(b))

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Date: December 29, 2000

Attorney Docket No.: 120301-2382A

ASSISTANT COMMISSIONER FOR PATENTS

Box Patent Application

Washington, D.C. 20231

Sir:

With reference to the filing in the United States Patent and Trademark Office of an application for patent in the name(s) of:

**MARCELLIN ESPEILLAC and PIERRE CRESPIN**

entitled:

**PROCESS FOR HYDROTREATING A HYDROCARBON FEEDSTOCK AND  
APPARATUS FOR CARRYING OUT SAME**

X Continuing Application

   Continuation X Divisional    Continuation-in-Part (CIP)  
of prior application serial no.09/001,486, filed December 31, 1997.

[Note: If priority under 35 U.S.C. 120 involves a series of respectively copending applications, then in this amendment identify each and its relationship to its immediate predecessor.]

X The prior application is assigned of record to TOTAL RAFFINAGE DISTRIBUTION S.A.

This is an application of a small entity under 37 CFR 1.9(f) and the amounts shown in parentheses below have been employed in calculating the fee:

   Small Entity Statement(s) filed in prior application, status still proper and desired

09751512-122900

The following are enclosed:

- ☒ Original specification (21 pages and a cover sheet, and an Abstract at page 22),  
and a Power of Attorney (2 pages)  
New Declaration filed during prosecution  
☒ 2 Sheet(s) of Drawings – plus two (2) sheets of Drawings in accordance with  
amendments herewith that were made in the parent application  
☒ 20 Claim(s) (Claims 1-20, pages 23-27)  
  
☐ This application contains a multiple dependent claim (see Preliminary  
Amendment herewith)  
  
☒ Our check for \$710.00, calculated on the basis of the claims as amended by any  
enclosed preliminary amendment as follows:

Basic Fee, \$710.00 (\$355.00):	\$710.00
Number of Claims in excess of 20 at \$18.00 (\$9.00) each:	\$00.00
Number of Independent Claims in excess of 3 at \$78.00 (\$39.00) each:	\$00.00
Multiple Dependent Claim Fee at \$260.00 (\$130.00):	\$00.00
Total Filing Fee:	\$00.00
<input type="checkbox"/> Assignment Recording Fee \$40.00:	

- ☐ This application is being filed within the \_\_\_ month following the expiration of the term  
originally set therefor in the prior application. This is a petition to request a -month  
extension of time. A check covering the cost of the petition is enclosed.  
  
☒ Oath or Declaration and Power of Attorney  
\_\_\_ New \_\_\_ signed \_\_\_ unsigned  
☒ Copy from a prior application (37 C.F.R. 1.63(d)) (See also Preliminary Amendment  
below)

Deletion of Inventors

- ☐ Signed Statement attached deleting inventor(s) named in the prior application (37  
C.F.R. 1.63(d)(2) and 1.33(b))

Power of Attorney or Correspondence Address Change

- X Power of attorney and/or correspondence address was changed during prosecution of the prior application. The power of attorney is to A Thomas S. Safford. The new correspondence address is indicated above, namely, c/o FROMMER LAWRENCE & HAUG LLP, 745 Fifth Avenue, NY, NY 10151, tel. 212-588-0800, fax 212-588-0500. KINDLY ADDRESS ALL TELEPHONIC COMMUNICATIONS TO BOTH THE UNDERSIGNED (THOMAS J. KOWALSKI) AND MR. SAFFORD.
- X Incorporation by Reference (for continuation or divisional application)

The entire disclosure of the prior applications, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

- X A Preliminary Amendment and Information Disclosure Statement is below, please amend the application, without prejudice, without admission, without surrender of subject matter and without any intention of creating any estoppel as to equivalents as follows:

IN THE SPECIFICATION

Please amend the specification as follows:

Page 1, under "Related Application" and before "This application claims priority ..."  
please insert: --This application is a divisional of ALLOWED U.S. application Serial No. 09/001,486, filed December 31, 1997.--

Page 12, line 21, please replace "prior art", by --invention (as broadly conceived by the applicants)--.

Page 12, line 23, after "invention", please insert: --(as broadly conceived by the applicants)--.

Page 13, line 5, please delete "of the prior art".

Page 16, lines 23 and 24, please replace "Example 1 hereinbelow refers to the prior art, and Examples 2 and 3" by --The Examples below--.

Page 17, line 1, please delete "(prior art)".

**IN THE DRAWINGS**

Please delete "(Prior Art)" from Figure 1; new sheets of drawings are enclosed reflecting this change.

**IN THE CLAIMS**

Please cancel claims 1-10, without prejudice, without admission, without surrender of subject matter, and without any estoppel as to equivalents.

**REMARKS**

The specification is amended at page 1 to include a recitation of a lineage to the parent U.S. application; the remaining foregoing specification and figure amendments were made in the parent application and were deemed to not involve new matter.

More in particular, the remaining foregoing specification and figure amendments conform the application to the original disclosure in the priority document (French application No. 96 16290, filed December 31, 1996, a certified copy of which was filed in the parent application).

The priority document was "incorporated by reference into the present application by the text of the first paragraph of this application.

The apparatus in Figure 1 is Applicants' own contemporaneous development and is understood not to be prior art in the statutory sense under U.S. law. The foregoing amendments correct an obvious inconsistency and thus do not involve new matter.

More specifically, attention is respectfully directed to the priority document, where it is clear that the description in French of both of Figures (at page 6, lines 24-29 of the priority document) is identical; namely, "d'un dispositif selon l'invention" which translates to "of an apparatus according to the invention". In contrast, at the bottom of page 12 of the U.S. application, only Figure 2 is so described.

Note that the terminology in French for "prior art" is normally "l'etat de la technique" or more literally, "the technical state", or more somewhat idiomatically, "the state of the technology". The French term for "prior art" does not appear anywhere in the French priority

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document.

The first two lines at the top of page 7 of the French priority document are the equivalent of lines 5 and 6 of page 13 of the present application; nowhere in those two lines of French text is the wording for “prior art”.

Similarly, the last two lines on page 16 of the application correspond to line 13 of page 9 of the French priority document; yet, the French there translates to, “The examples below illustrate the invention.”

Note also that Figure 1 in the French priority document is not indicated on the drawing to be prior art, such that the drawing amendment merely conforms the drawings to those in the French priority document that is incorporated by reference into the present text.

More clearly, please compare page 9, line 16 of the priority document with the top line on page 17 of the U.S. application, which respectively read “Exemple 1” and “EXAMPLE 1 (prior art)”. Thus, specification amendments merely conform the text to that in the French priority document that is incorporated by reference into the present text.

The amendment to the last line on page 12 finds basis at page 14, line 15 of the U.S. specification; and, this is merely an aid to the reader to differentiate between the embodiments shown in Figures 1 and 2. For the same reason, the differentiating wording “(as broadly conceived by the applicants)” has been included with the amendment to page 12, line 21.

Thus, the specification and figure amendments are merely a factual correction and do not involve any new matter issue. Accordingly, these amendments were permitted in the allowed parent application and should be likewise permitted in this divisional application.

#### **INFORMATION DISCLOSURE STATEMENT**

The Examiner is respectfully requested to consider and make of record the parent application and the documents cited during the prosecution of the parent application, all of which should be available to the Examiner, including: Hamblin, U.S. Patent No. 3,437,584; Reno, U.S. Patent No. 4,713,167, GB 394 858, WO 94/09090, WO 96/17903, Adams et al., U.S. Patent No. 3,591,489.

Applicants respectfully assert that the presently claimed apparatus is patentable over the art of record in the parent application, including for the reasons and arguments of Applicants of record therein in support of patentability and the expert Declaration therein of Dr. Laurent Mariette.

The Examiner is also respectfully invited to conduct an independent search and examination.

Accordingly, early and favorable examination on the merits and consideration and making of record the documents cited herein that are available from the parent application file, are respectfully requested.

X Certified copy of each foreign priority application, including French application 96.16290, filed December 31, 1996, on which the claim for priority under 35 U.S.C. 119 is based, was filed in prior U.S. applications serial nos. 09/001486, filed December 31, 1997. Kindly acknowledge the claim for priority from French application 96.16290, filed December 31, 1996 in this application.

<u>Application No.</u>	<u>Filed</u>	<u>In</u>
96.16290	DECEMBER 31, 1996	FRANCE

**REQUEST FOR INTERVIEW**

**IF ANY ISSUE IS AN IMPEDIMENT TO ALLOWANCE, AN INTERVIEW IS RESPECTFULLY REQUESTED, AND THE EXAMINER IS FURTHER RESPECTFULLY REQUESTED TO CONTACT THE UNDERSIGNED BY TELEPHONE TO ARRANGE A MUTUALLY CONVENIENT TIME AND MANNER THEREFOR. ACCORDINGLY, THIS IS TO BE CONSTRUED AS A REQUEST FOR AN INTERVIEW AT AN EARLY DATE, AFTER THE EXAMINER HAS CONSIDERED AND SEARCHED AND EXAMINED THE APPLICATION; AND, THE INTERVIEW CAN BE PRIOR TO A FIRST OFFICE ACTION ON THE MERITS, AS IT IS BELIEVED THAT THE APPLICATION CAN BE IN CONDITION FOR A FIRST ACTION ALLOWANCE.**

006221-215450

Please charge any additional fees required for the filing of this application or credit any overpayment to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant(s)

By: Thomas J. Kowalski  
THOMAS J. KOWALSKI, ESQ., Reg. No. 32,147

EXPRESS MAIL

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Date of Deposit: 12/29/00

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Charles Jackson  
(Typed or printed name of person mailing paper or fee)

Charles Jackson  
(Signature of person mailing paper or fee)

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